

**REMARKS**

**Summary of the Office Action - Status of the claims**

Claims 1-10 are pending in the Office Action.

Claims 1-10 are rejected under 35 U.S.C. § 101.

Claims 1-10 are rejected under 35 U.S.C. § 103(a).

**Applicants' Response**

Applicants have amended claims 1 and 4 to more clearly reflect the claimed subject matter. Support for the claim amendments can be found throughout the Application. (*See, e.g.,* Paragraph [0007] of the Application as filed). As such, no new matter has been added.

Applicants' silence with regard to the Examiner's rejections of the dependent claims constitutes recognition by the Applicants that the rejections are moot based on Applicants' Remarks relative to the independent claim from which the dependent claims depend. Upon entry of the Amendment, claims 1-10 are pending. Applicants respectfully traverse all rejections of record.

**Rejections under 35 U.S.C. § 101**

Claims 1-10 stand rejected under 35 U.S.C. § 101 as allegedly directed to non-statutory subject matter. Applicants traverse, and respectfully request reconsideration.

As the Examiner has recognized, a § 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. In addition, the tie to a particular apparatus, for example, cannot be mere extra-solution activity. *See* Office Action, page 3 (citing *In re Bilski*, 88 USPQ2d 1385 (Fed. Cir. 2008)). According to the Examiner, "claim 1 fails prong (1) because the 'tie'...is representative of extra-solution activity."

Applicants respectfully disagree, and submit that claim 1 satisfies at least prong 1. The process recited in claim 1 is tied to another statutory class (i.e., an apparatus), including at least an assigning computer, a purchasing computer, a merchant computer, and an acquirer or issuer computer. Claim 1 recites a “method of conducting a transaction by a purchaser over a communications network,” wherein the aforementioned computers are used to perform at least some of the steps of the method. Therefore, the use of the aforementioned computers is integral to the method and not mere insignificant extra-solution activity.

Applicants therefore submit that the “tie” is not representative of extra-solution activity. As such, Applicants respectfully submit that the claims are directed to statutory subject matter and meet the requirements of 35 U.S.C. § 101.

#### 35 U.S.C. § 103 Rejections

Claims 1-7, 9, and 10 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over U.S. Patent No. 6,163,771 to Walker et al. (“Walker”) in view of U.S. Patent No. 6,636,833 to Flitcroft et al. (“Flitcroft”) and further in view of U.S. Patent No. 5,953,710 to Fleming (“Fleming”). Claim 8 was rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Walker in view of Flitcroft, further in view of Fleming, and further in view of U.S. Patent No. 6,018,717 to Lee et al. (“Lee”). Applicants traverse, and respectfully submit that the claims as amended are patentable over the cited references.

#### Independent Claim 1

Independent claim 1 is directed to a method of conducting a transaction by a purchaser over a communications network. Claim 1 recites, *inter alia*, “providing a second payment

account number associated with said first payment account number to a purchaser computer using an issuer computer, said second payment account number being reusable by the purchaser for any purchase in which said first payment account number could be used, said second account number further not having use-triggered restrictions and not being a transaction number and having an encryption key assigned thereto wherein providing said second payment account number comprises: (i) receiving identification information from a purchaser computer at an issuer computer ; (ii) verifying said identification information using an issuer computer, (iii) after verifying said identification information, using an issuer computer to provide secure payment software comprising said second payment number to a purchaser computer.”

Walker is directed to a method in which a single-use, transaction-specific financial account number is generated using a cryptographic key. *See Walker, Col. 1 lines 6-10.* The financial account number is generated by a processor operating on a smart card or, alternatively, is assigned by a credit card issuer from a database containing a list of single-use credit card numbers. *See Walker, Col. 6 lines 61-64, Col. 11 lines 21-25.* Walker therefore fails to disclose or suggest a second financial account number that is “reusable by the purchaser for any purchase in which said first payment account number could be used” and which does not have use-triggered restrictions.

Walker further fails to disclose or suggest “using an issuer computer to provide secure payment software comprising said second payment number to a purchaser computer,” as acknowledged by the Examiner. *See Office Action, pages 5-6.* In the case where the financial account number is assigned by a credit card issuer from a database containing a list of single-use credit card numbers, the number “is displayed on the device display screen.” *Walker, Col. 11 line 56.* No secure payment software is provided from the issuer computer to the purchaser

computer. In the case where the financial account number is generated by a processor operating on a smart card, the issuer computer does not provide any information to the purchaser computer. Rather, the financial account number is provided by the processor on the smart card.

Flitcroft fails to disclose or suggest the missing elements. Flitcroft is directed to a credit card system for providing additional limited-use credit card numbers and/or cards. *See* Flitcroft, Abstract. The limited-use numbers can be downloaded, for example, to a user's smart card or to a radio unit such as a portable telephone, or could be printed on a form and delivered to a customer via mail. *See* Flitcroft, Col. 10 lines 25-55. Like Walker, Flitcroft fails to disclose or suggest "using an issuer computer to provide secure payment software comprising said second payment number to a purchaser computer." Indeed, secure payment software could not be sent to the customer via mail.

Flitcroft also fails to disclose or suggest "a second financial account number that is reusable by the purchaser for any purchase in which said first payment account number could be used" and which does not have use-triggered restrictions. Instead, Flitcroft discloses limited-use credit card numbers:

The term "limited-use" credit card number is used to encompass at least both the embodiment in which the credit card is designated for a single use, and the embodiment in which the credit card is designated for multiple uses providing that the charges accrued do not exceed a prescribed threshold or thresholds, such [as] a single charge, total charges over a limited time period, total charge in a single transaction, etc. Also, the limited use credit card can be limited to a single use for a present amount, e.g., \$20.00. *A common feature is that the limitation is based on a use-triggered condition subsequent, and not just the expiration date of the card.*

Flitcroft, Col. 6 lines 53-64 (emphasis added). Thus, Flitcroft does not disclose an account number which is reusable by the purchaser for all purchases in which said first payment account number could be used and which does not have use-triggered restrictions. Indeed, Flitcroft expressly indicates that all of the credit card numbers have

use-triggered restrictions. Flitcroft, like Walker, fails to disclose or suggest a second payment account number as recited in claim 1.

Fleming is directed to a method for associating a secondary payment card with a primary payment card which allows someone other than the card issuer to set limits on expenditures that can be made using the secondary payment card. *See Fleming, Abstract.* In the method disclosed in Fleming, the secondary payment card is used to perform a transaction and an approval request is sent to the bank approval system. *See Fleming,* col. 8 lns. 17-20. The bank approval system first checks whether the account has sufficient available credit to perform the transaction. *See Fleming,* col. 8 lns. 24-25. The available credit for the secondary payment card can be less than the available credit for the primary payment card. *See Fleming,* col. 9 lns. 49-53. In addition, because additional limits may have been set on the use of the secondary payment card, generally by the holder of the primary payment card, the bank approval system performs further processing. *See Fleming,* col. 8 ln. 60 - col. 9 ln. 9. This may be based on a number of purchases previously performed using the secondary payment card. *See id.* Therefore Fleming, like Walker and Flitcroft, fails to disclose or suggest a “a second financial account number that is reusable by the purchaser for any purchase in which said first payment account number could be used” and which does not have use-triggered restrictions.

Fleming also fails to disclose or suggest, among other things, “using an issuer computer to provide secure payment software comprising said second payment number to a purchaser computer.” Instead, the issuer provides only a payment card to the cardholders. The Examiner alleges that Fleming discloses “providing said payment

account number" including "using said issuer computer to provide secure payment software...to a purchaser computer." Office Action, page 6. However, the citations provided by the Examiner show only that Fleming discloses a system including a merchant interface unit which sends approval requests to a bank approval processing system. For example, Col. 8, lines 17-40, which the Examiner identifies specifically as disclosing "after verifying said identification information, using an issuer computer to provide secure payment software comprising said second payment number to a purchaser computer," describes a process of sending an approval request to a bank approval processing system and receiving an approval or rejection message after the system has checked the transaction amount against the available credit for the relevant account. No software is transmitted, either in the cited sections or anywhere else in the reference. Indeed, the cited section cannot disclose or suggest providing a second payment account comprising, among other things, "using an issuer computer to provide secure payment software comprising said second payment number to a purchaser computer," because the secondary payment number must necessarily be provided to the purchaser before a transaction using the secondary number is processed for approval.

For at least these reasons, Applicants respectfully submit that claim 1 as amended is non-obvious and patentable over the cited references. Independent claim 4, as amended, recites similar features to claim 1 and is patentable for at least the same reasons. Dependent claims 2-3 and 5-10 depend from independent claims 1 and 4 and are patentable for at least the same reasons. Applicants therefore respectfully request that the rejections be withdrawn and claims 1-10, as amended, be allowed.

**CONCLUSION**

On the basis of the foregoing Amendments and Remarks, Applicants respectfully submit that the pending claims of the present application are allowable over the cited references. Favorable consideration and timely allowance of this application are respectfully requested. In the event that the application is not deemed in condition for allowance, the Examiner is invited to contact the undersigned at (212) 408-2500 in an effort to advance the prosecution of this application.

Applicants believe no additional fees are due in connection with this paper. If any additional fees are due, or any overpayment has been made, Applicants authorize the Commissioner to charge any additional fees and/or credit any overpayments associated with this paper to Baker Botts L.L.P. Deposit Account No. 02-4377.

Respectfully submitted,

  
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